

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY**

Re: *Connect America Fund*, WC Docket No. 10-90; *ETC Annual Reports and Certifications*, WC Docket No. 14-58; *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135; *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92.

Throughout my tenure as a Commissioner, and as one of the leaders of the 2016 rate-of-return reform order, I have been incredibly engaged in pushing for Universal Service Fund (USF) reforms to promote broadband deployment in unserved areas while minimizing burdens on ratepayers. Some principles I have long-championed are advanced by this item, particularly, budgetary sufficiency and predictability for legacy and Alternative Connect America Cost Model (A-CAM) carriers.

This item additionally includes a new model offer for legacy carriers, known as A-CAM II. As I have made clear in the past, I am a strong proponent of adoption of the cost model. While not perfect by any means, model-based support is a reasonable effort to efficiently provide necessary subsidies while reducing incentives of some to exploit rate-of-return regulation by gold-plating networks and over-spending on operating expenses. To maximize migration from rate-of-return regulation, this item offers legacy carriers a very generous deal in return for electing model-based support. In fact, practically everyone is invited to the A-CAM II “party,” be it model winners or losers; carriers that have deployed 10/1 Mbps service to more than 90% of eligible locations; census blocks where fiber-to-the-premises or cable has already been deployed; and locations where unsubsidized competitors provide voice and broadband service under 25/3 Mbps. Given the potential for increased USF support, it’s hard to imagine what more we could waive to further sweeten the deal, or a circumstance in which a model winner wouldn’t take the offer. While I have apprehensions about the implications of A-CAM II, I am willing to support these specific policy cuts in order to approve the rest of the item, and I thank Bureau staff for responding to my request for budgetary data on the different possible election outcomes. This deliberative process was helpful in determining the worst-case scenario for budgetary purposes — in other words, if only model winners take the plunge — which would result in expanding the rate-of-return portion of the High Cost program by approximately 16 percent or \$400 million per year.

Apart from the open-ended nature of the deal, I do have concerns related to our apparent endorsement of Form 477 data to identify areas of competitive overlap and the decision to forego a challenge process in adopting A-CAM II parameters. While a challenge process can be administratively burdensome and would create delays in implementing the second model offer, relying on the Form 477 data is hard to square with our ongoing proceeding on improving our broadband coverage data. I have been a longtime skeptic of this data to the extent that it is being used for purposes for which it was not designed or intended. As an improvement, I thank the Chairman for adding questions to the Further Notice, at my behest, on whether to hold a challenge process prior to auctioning support in substantially overlapped areas. Given the potential for a carrier’s total loss of USF support, the question of whether to hold a challenge process requires special consideration in that context. Ultimately, a challenge process is not a panacea, but it’s better than blindly supporting Form 477 data as is.

Additionally, I am not convinced that a Tribal Broadband Factor is the best method, especially as this one is formulated, to address the challenges of deploying broadband on Tribal lands. First, the case for disparate treatment is not immediately evident: Tribal lands are certainly not the only areas where Americans face higher levels of poverty, and, moreover, certain Tribal communities are relatively wealthy, and some have deployed broadband to the vast majority of residents. As recognized in the 2018 Tribal OpEx Order, increasing support for the mere fact of serving a Tribal area and without basis in need constitutes an inefficient use of scarce USF dollars. The model does not make granular assumptions about poverty levels, and it is unfair to make an exception only in the Tribal context. We also have a separate low-income support mechanism, and it is inappropriate to confound low-income concerns with

high-cost deployment policy, especially to such an extent and with so little debate or input. And, second, if greater cost of broadband deployment on Tribal lands is due to higher barriers to entry and permitting costs artificially imposed by Tribal governments, I cannot think of a worse basis for including a Tribal Broadband Factor. Rewarding Tribal governments for imposing artificial barriers and engaging in rent-seeking will only encourage the creation of further obstacles to broadband deployment—and ultimately hurt Tribal communities' prospects for broadband access.

Despite some reservations, I am grateful for the strides we make today in delivering certainty and sufficiency to the budget for rate-of-return carriers. While a significant portion of this item is devoted to buying higher speeds for those who may already have some degree of broadband, we must keep in mind that substantial areas of the country remain without service at all. With the resolution of this item, I look forward to finally turning the Commission's focus next year to implementing the long-awaited Remote Areas Fund auction, as required by the *USF/ICC Transformation Order*, to bring broadband service to the costliest and hardest areas to serve. Connecting the unserved can now be our foremost priority, and much more work remains in furtherance of that goal.

I vote to approve.